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*Attorneys for Irving H. Picard, Trustee for the  
Substantively Consolidated SIPA Liquidation of  
Bernard L. Madoff Investment Securities LLC  
and the estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

J. EZRA MERKIN, GABRIEL CAPITAL, L.P.,  
ARIEL FUND LTD., ASCOT PARTNERS, L.P.,  
ASCOT FUND LTD., GABRIEL CAPITAL  
CORPORATION,

Defendants.

**Hearing Date: June 24, 2015 at 10:00 a.m.**

**Objections Due: June 17, 2015 at 5:00 p.m.**

No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 09-01182 (SMB)

**NOTICE OF MOTION FOR ENTRY OF AN ORDER PURSUANT TO SECTION 105(a)  
OF THE BANKRUPTCY CODE AND RULES 2002 AND 9019 OF THE FEDERAL  
RULES OF BANKRUPTCY PROCEDURE APPROVING SETTLEMENT  
AGREEMENT BETWEEN THE TRUSTEE AND GABRIEL CAPITAL, L.P., ARIEL  
FUND LTD., AND BART M. SCHWARTZ AS THE APPOINTED  
RECEIVER OF GABRIEL CAPITAL, L.P. AND ARIEL FUND LTD.**

PLEASE TAKE NOTICE THAT Irving H. Picard (the “Trustee”), as trustee for the liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa-*III*, and the substantively consolidated estate of Bernard L. Madoff (“Madoff”), by and through his undersigned counsel, will move before the Honorable Stuart M. Bernstein, United States Bankruptcy Judge, at the United States Bankruptcy Court, the Alexander Hamilton Customs House, One Bowling Green, New York, New York 10004, on **June 24, 2015 at 10:00 a.m.**, or as soon thereafter as counsel may be heard, seeking entry of an order, pursuant to section 105(a) of the United States Bankruptcy Code and Rules 2002 and 9019 of the Federal Rules of Bankruptcy Procedure, approving a certain settlement agreement by and between the Trustee, on the one hand, and Gabriel Capital, L.P. (“Gabriel”), Ariel Fund Limited (“Ariel”), and Bart M. Schwartz, as Receiver of Ariel and Gabriel (“Receiver”), on the other hand (the “Motion”), as more particularly set forth in the Motion and the Affidavit of Irving H. Picard In Support of the Motion (the “Picard Affidavit”), annexed hereto.

PLEASE TAKE FURTHER NOTICE that written objections to the Motion must be filed with the Clerk of the United States Bankruptcy Court, One Bowling Green, New York, New York 10004 by no later than **5:00 p.m. on June 17, 2015** (with a courtesy copy delivered to the Chambers of the Honorable Stuart M. Bernstein) and must be served upon (a) Baker & Hostetler LLP, 45 Rockefeller Plaza, New York, New York 10111, Attn: David J. Sheehan and Lan Hoang; (b) Reed Smith, 599 Lexington Avenue, 22<sup>nd</sup> Floor, New York, New York 10022, Attn: James C. McCarroll and Jordan W. Siev; and (c) Securities Investor Protection Corporation, 805 Fifteenth Street, N.W., Suite 800, Washington, DC 20005 Attn: Kevin Bell. Any objections

must specifically state the interest that the objecting party has in these proceedings and the specific basis of any objection to the Motion.

PLEASE TAKE FURTHER NOTICE that failure to file timely objections may result in the entry of an order granting the relief requested in the Motion without further notice to any party or an opportunity to be heard.

Dated: New York, New York  
May 29, 2015

Respectfully submitted,

BAKER & HOSTETLER LLP

By: /s/ David J. Sheehan  
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Trustee for the Substantively  
Consolidated SIPA Liquidation of the  
estate of Bernard L. Madoff Investment  
Securities LLC and the estate of  
Bernard L. Madoff*